

EXHIBIT A

Ewm

FILED: ERIE COUNTY CLERK 07/30/2023 02:22 AM

NYSCEF DOC. NO. 1

INDEX NO. 809560/2023

RECEIVED NYSCEF: 07/30/2023

SUPREME COURT OF THE STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

DAVID WHITE

SUMMONS

Plaintiff,

vs.

Index No.

COUNTY OF ERIE
95 Franklin Street
Buffalo, New York 14202

Defendant conducts business
95 Franklin Street
Buffalo, New York 14202

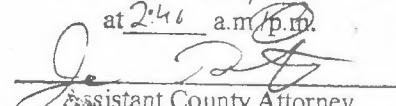
ERIE COUNTY SHERIFF JOHN GARCIA,
individually and in his official capacity
10 Delaware Avenue
Buffalo, New York 14202

Plaintiff designates Erie County
as the place of trial

ERIE COUNTY SHERIFF'S DEPUTY CHANDLER
individually and in his official capacity
10 Delaware Avenue
Buffalo, New York 14202

ERIE COUNTY SHERIFF'S SERGEANT LEWANDOWSKI
individually and in his official capacity
10 Delaware Avenue
Buffalo, New York 14202

Defendants.

This paper received at the
Erie County Attorney's Office
from David Kobler on
the 18 day of Aug, 2023
at 2:46 a.m./p.m.

Assistant County Attorney

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your Answer, or, if the Complaint is not served with the Summons, to serve a Notice of Appearance, on the Plaintiff's attorneys within TWENTY (20) DAYS after the service of this Summons, exclusive of the day of service (or within THIRTY (30) DAYS after the service is complete if this Summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

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DATED: Buffalo, New York
July 9, 2023

PENBERTHY LAW GROUP LLP

By: s/Brittanylee Penberthy, Esq.
BRITTANYLEE PENBERTHY, ESQ.
Attorneys for Plaintiff
Office and P.O. Address
227 Niagara Street
Buffalo, New York 14201
(716) 803-8402

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SUPREME COURT OF THE STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

DAVID WHITE

COMPLAINT

Plaintiff,

vs.

Index No.

COUNTY OF ERIE
95 Franklin Street
Buffalo, New York 14202

ERIE COUNTY SHERIFF JOHN GARCIA,
individually and in his official capacity,
10 Delaware Avenue
Buffalo, New York 14202

ERIE COUNTY SHERIFF'S DEPUTY CHANDLER,
individually and in his official capacity,
10 Delaware Avenue
Buffalo, New York 14202

ERIE COUNTY SHERIFF'S SERGEANT LEWANDOWSKI,
individually and in his official capacity,
10 Delaware Avenue
Buffalo, New York 14202

Defendants.

Plaintiff, above named, by his attorneys, PENBERTHY LAW GROUP LLP, for his Complaint against the Defendants, COUNTY OF ERIE, ERIE COUNTY SHERIFF JOHN GARCIA, ERIE COUNTY SHERIFF'S DEPUTY CHANDLER, and ERIE COUNTY SHERIFF SERGEANT LEWANDOWSKI alleges as follows:

1. At the time of the incident described herein, the plaintiff, DAVID WHITE, was a resident of the City of Buffalo located within the County of Erie and the State of New York, and housed as an inmate at Defendants' facility, commonly known as Erie County Holding Center and located at 40 Delaware Avenue, City of Buffalo, County of Erie and the State of New York.

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2. Upon information and belief, the Defendant, COUNTY OF ERIE, is a municipal corporation duly organized and existing under and pursuant to the laws of the State of New York.

3. Upon information and belief, at all times hereinafter mentioned, the Defendant, ERIE COUNTY SHERIFF JOHN GARCIA, individually and in his official capacity, was and still is a resident of the County of Erie and the State of New York, and the elected official of Erie County Sheriff's Department, is a municipal department within Defendant COUNTY OF ERIE, organized and existing under and pursuant to the laws of the State of New York.

4. Upon information and belief, at all times hereinafter mentioned, the Defendant, ERIE COUNTY SHERIFF'S DEPUTY CHANDLER (the exact full name being still unknown), was and still is a resident of the County of Erie and the State of New York. Defendant ERIE COUNTY SHERIFF'S DEPUTY CHANDLER is being sued in his official and individual capacity.

5. Upon information and belief, at all times hereinafter mentioned, the Defendant, ERIE COUNTY SHERIFF'S SERGEANT LEWANDOWSKI (the exact full name being still unknown), was and still is a resident of the County of Erie and the State of New York. Defendant ERIE COUNTY SHERIFF'S SERGEANT LEWANDOWSKI is being sued in his official and individual capacity.

6. Upon information and belief, at all times hereinafter mentioned, Defendants ERIE COUNTY SHERIFF'S DEPUTY CHANDLER and ERIE COUNTY SHERIFF'S SERGEANT LEWANDOWSKI were employed by the Defendants, COUNTY OF ERIE and ERIE COUNTY SHERIFF JOHN GARCIA as corrections officers, and at all relevant times mentioned herein were acting in their capacity as corrections officers in accordance with the policies, directives, initiatives, both express, implied, and as a matter of custom of the municipal Defendants COUNTY OF ERIE and ERIE COUNTY SHERIFF JOHN GARCIA.

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7. On or about July 24, 2022, Plaintiff was handcuffed and being escorted to his unit with Defendants' Erie County Holding Center by Defendant ERIE COUNTY SHERIFF'S SERGEANT LEWANDOWSKI when he was physically attacked and assaulted by Defendant ERIE COUNTY SHERIFF'S DEPUTY CHANDLER, without cause, and causing Plaintiff serious physical injuries.

8. Upon information and belief, Defendant ERIE COUNTY SHERIFF'S SERGEANT LEWANDOWSKI advised or instructed Defendant ERIE COUNTY SHERIFF'S DEPUTY CHANDLER to refrain from approaching Plaintiff prior to the attack, and Defendant ERIE COUNTY SHERIFF'S DEPUTY CHANDLER failed to abide by the same.

9. On or about September 28, 2022, a Notice of Claim was served via Certified Mail Return Receipt Requested, on behalf of the Plaintiff, DAVID WHITE, upon COUNTY OF ERIE, ERIE COUNTY SHERIFF JOHN GARCIA, individually and in his official capacity, Erie County Sheriff's Office, and Erie County Deputies John Doe, which such Notice of Claim sets forth the name and post office address of DAVID WHITE, claimant, the name and post office address of his attorneys, the nature of the claim, the time when, the place where, and the manner in which the claim arose, together with the items of damages and injuries then known to exist, and after receipt of said Notice of Claim, as aforesaid, Defendants have failed and neglected to adjust or pay the said claim.

10. The action falls within one or more of the exceptions set forth in CPLR § 1602.

**AS AND FOR A FIRST CAUSE OF ACTION
AGAINST DEFENDANTS, ABOVE-NAMED,
THE PLAINTIFF, DAVID WHITE, ALLEGES:**

11. Plaintiff incorporates and repeats the above paragraphs in their entirety with the same force and effect as if set forth fully herein.

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12. Upon information and belief, the incident hereinbefore described and the resultant injuries were caused as a result of the negligent, careless, reckless and/or unlawful conduct on the part of the Defendants, COUNTY OF ERIE and/or ERIE COUNTY SHERIFF JOHN GARCIA, individually and in his official capacity, ERIE COUNTY SHERIFF'S DEPUTY CHANDLER, and ERIE COUNTY SHERIFF SERGEANT LEWANDOWSKI, and/or by their agents, servants and/or employees in the operation, management, and control of the aforesaid correctional facility, and, among other things, said negligence of the Defendants was exhibited in Defendants allowing and failing to prevent the physical assault of Plaintiff by ERIE COUNTY SHERIFF'S DEPUTY CHANDLER, when Defendants knew or should have known of the dangers presented to Plaintiff, and failed to protect or warn Plaintiff of the harmful actions.

13. Upon information and belief, the Defendants affirmatively created the dangerous and hazardous condition complained of herein.

14. As a result of the alleged incident, the plaintiff, DAVID WHITE, sustained bodily injuries and was painfully and seriously injured, and some of the injuries may result in permanent defect; was rendered sick, sore, lame and disabled; sustained pain and suffering and shock to his nerves and nervous system; was caused to and did seek medical aid and attention; was caused to be confined to hospital, bed and home; was caused to and did incur great medical expenses and may incur further medical expense; was caused to be incapacitated from his usual activities and may be further incapacitated.

15. As a consequence of the aforementioned, Plaintiff has been injured in a sum exceeding the monetary jurisdiction of all lower courts.

**AS AND FOR A SECOND CAUSE OF ACTION AGAINST
DEFENDANTS, THE PLAINTIFF, DAVID WHITE,
ALLEGES:**

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16. Plaintiff incorporates and repeats the above paragraphs in their entirety with the same force and effect as if set forth fully herein.

17. Defendants ERIE COUNTY SHERIFF'S DEPUTY CHANDLER and ERIE COUNTY SHERIFF SERGEANT LEWANDOWSKI at all times mentioned in this Complaint were acting under color of New York State law, actionable under 42 U.S.C. § 1983.

18. Defendants ERIE COUNTY SHERIFF'S DEPUTY CHANDLER and ERIE COUNTY SHERIFF SERGEANT LEWANDOWSKI, by allowing Plaintiff to be attacked, violated his Fourth, Eighth, and/or Fourteenth Amendment when subject to such a cruel assault.

19. As a consequence of the aforementioned, Plaintiff has been injured in a sum exceeding the monetary jurisdiction of all lower courts.

**AS AND FOR A THIRD CAUSE OF ACTION AGAINST
DEFENDANTS, THE PLAINTIFF, DAVID WHITE,
ALLEGES:**

20. Plaintiff incorporates and repeats the above paragraphs in their entirety with the same force and effect as if set forth fully herein.

21. Actionable under 42 U.S.C. § 1983, as a result of the municipal policy, custom, or practice or decision of municipal policymaker with final policymaking authority, Defendants COUNTY OF ERIE, ERIE COUNTY SHERIFF JOHN GARCIA, individually and in his official capacity, ERIE COUNTY SHERIFF'S DEPUTY CHANDLER, and ERIE COUNTY SHERIFF SERGEANT LEWANDOWSKI took action in the instruction and/or promulgations of rules, under color of law, to cause and effect the deprivation of Plaintiff's Fourth, Eighth, and Fourteenth Amendment rights to be free from cruel and unusual punishment, unreasonable force, and provided due process.

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22. Defendants COUNTY OF ERIE, ERIE COUNTY SHERIFF JOHN GARCIA, individually and in his official capacity, and ERIE COUNTY SHERIFF SERGEANT LEWANDOWSKI, allowed, or at least provided opportunity for, ERIE COUNTY SHERIFF'S DEPUTY CHANDLER to seek vengeance upon the Plaintiff, David White, knowing ERIE COUNTY SHERIFF'S DEPUTY CHANDLER had prior issues with Plaintiff.

23. As a consequence of the aforementioned, Plaintiff has been injured in a sum exceeding the monetary jurisdiction of all lower courts.

**AS AND FOR A FOURTH CAUSE OF ACTION AGAINST
DEFENDANT ERIE COUNTY SHERIFF'S DEPUTY
CHANDLER, THE PLAINTIFF, DAVID WHITE,
ALLEGES:**

24. Plaintiff incorporates and repeats the above paragraphs in their entirety with the same force and effect as if set forth fully herein.

25. Defendant ERIE COUNTY SHERIFF'S DEPUTY CHANDLER made offensive contact with the person of Plaintiff, and intended to make such offensive contact without the Plaintiff's consent when he attacked Plaintiff while handcuffed.

26. As a consequence of the aforementioned, Plaintiff has been injured in a sum exceeding the monetary jurisdiction of all lower courts.

**AS AND FOR A FIFTH CAUSE OF ACTION AGAINST
DEFENDANT ERIE COUNTY SHERIFF'S DEPUTY
CHANDLER, THE PLAINTIFF, DAVID WHITE,
ALLEGES:**

27. Plaintiff incorporates and repeats the above paragraphs in their entirety with the same force and effect as if set forth fully herein.

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28. Defendant ERIE COUNTY SHERIFF'S DEPUTY CHANDLER, acting under color of State Law, made offensive contact with the person of Plaintiff, and intended to make such offensive contact without the Plaintiff's consent when he attacked Plaintiff while handcuffed.

29. Defendant ERIE COUNTY SHERIFF'S DEPUTY CHANDLER violated Plaintiff's constitutional rights, actionable under 42 U.S.C. § 1983.

30. As a consequence of the aforementioned, Plaintiff has been injured in a sum exceeding the monetary jurisdiction of all lower courts.

**AS AND FOR A SIXTH CAUSE OF ACTION AGAINST
DEFENDANTS, THE PLAINTIFF, DAVID WHITE,
ALLEGES:**

31. Plaintiff incorporates and repeats the above paragraphs in their entirety with the same force and effect as if set forth fully herein.

32. Defendants COUNTY OF ERIE, ERIE COUNTY SHERIFF JOHN GARCIA, individually and in his official capacity, and ERIE COUNTY SHERIFF SERGEANT LEWANDOWSKI failed to intervene in the unlawful attack upon Plaintiff by ERIE COUNTY SHERIFF'S DEPUTY CHANDLER, while their fellow officer violated the Federal Constitutional rights of the Plaintiff, actionable under 42 U.S.C. § 1983.

33. As a consequence of the aforementioned, Plaintiff has been injured in a sum exceeding the monetary jurisdiction of all lower courts.

**AS AND FOR A SEVENTH CAUSE OF ACTION AGAINST
DEFENDANTS COUNTY OF ERIE AND ERIE COUNTY
SHERIFF JOHN GARCIA, THE PLAINTIFF, DAVID
WHITE, ALLEGES:**

34. Plaintiff incorporates and repeats the above paragraphs in their entirety with the same force and effect as if set forth fully herein.

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35. Upon information and belief, Defendants COUNTY OF ERIE and ERIE COUNTY SHERIFF JOHN GARCIA employed Defendants, ERIE COUNTY SHERIFF SERGEANT LEWANDOWSKI and ERIE COUNTY SHERIFF'S DEPUTY CHANDLER, and Defendants COUNTY OF ERIE and ERIE COUNTY SHERIFF JOHN GARCIA knew or should have known of the Defendant ERIE COUNTY SHERIFF'S DEPUTY CHANDLER's propensity for the conduct causing injury prior to the occurrence on the date of incident, including unlawful batter/assault, and Defendants COUNTY OF ERIE and ERIE COUNTY SHERIFF JOHN GARCIA failure to provide appropriate training and reprimand of Defendants ERIE COUNTY SHERIFF SERGEANT LEWANDOWSKI and ERIE COUNTY SHERIFF'S DEPUTY CHANDLER.

36. The torts committed by Defendants ERIE COUNTY SHERIFF SERGEANT LEWANDOWSKI and ERIE COUNTY SHERIFF'S DEPUTY CHANDLER were committed in the scope of Defendants' course of employment.

37. Upon information and belief, Defendants ERIE COUNTY SHERIFF SERGEANT LEWANDOWSKI and ERIE COUNTY SHERIFF'S DEPUTY CHANDLER had a disciplinary history that underscored the negligent hiring, training, supervision, detention, and retention by Defendants COUNTY OF ERIE and ERIE COUNTY SHERIFF JOHN GARCIA.

38. Upon information and belief, Defendants COUNTY OF ERIE and ERIE COUNTY SHERIFF JOHN GARCIA placed Defendants ERIE COUNTY SHERIFF SERGEANT LEWANDOWSKI and ERIE COUNTY SHERIFF'S DEPUTY CHANDLER, officer-employees, in a position to cause foreseeable harm to Plaintiff; harm which the Plaintiff most probably would have been spared had Defendants COUNTY OF ERIE and ERIE COUNTY SHERIFF JOHN GARCIA taken reasonable care in supervising, training, hiring, and disciplining and retaining of

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Defendants ERIE COUNTY SHERIFF SERGEANT LEWANDOWSKI and ERIE COUNTY SHERIFF'S DEPUTY CHANDLER.

39. Upon information and belief, Defendants COUNTY OF ERIE and ERIE COUNTY SHERIFF JOHN GARCIA failed to properly train their officer-employees, Defendants ERIE COUNTY SHERIFF SERGEANT LEWANDOWSKI and ERIE COUNTY SHERIFF'S DEPUTY CHANDLER on the use of physical force and protection of inmates from harm by others, which caused foreseeable harm to Plaintiff.

40. As a consequence of the aforementioned, Plaintiff has been injured in a sum exceeding the monetary jurisdiction of all lower courts.

**AS AND FOR AN EIGHTH CAUSE OF ACTION,
AGAINST DEFENDANTS, ABOVE-NAMED,
THE PLAINTIFF, DAVID WHITE, ALLEGES:**

41. Plaintiff incorporates and repeats the above paragraphs in their entirety with the same force and effect as if set forth fully herein.

42. Defendant ERIE COUNTY SHERIFF'S DEPUTY CHANDLER did, without excuse and justification, intentionally, knowingly, maliciously, and/or recklessly assault Plaintiff, motivated by an intent to do harm to the Plaintiff, and using the correctional facility processes in a perverted manner to obtain a collateral objective, i.e., to attack Plaintiff.

43. Defendants COUNTY OF ERIE, ERIE COUNTY SHERIFF JOHN GARCIA, and ERIE COUNTY SHERIFF SERGEANT LEWANDOWSKI permitted and provided ample opportunity for the abuse of process described herein.

44. That by reason of the foregoing, Plaintiff has been caused to sustain injuries and losses, including special damages, all to each of his damage in a sum of money exceeding the monetary jurisdiction of all lower Courts.

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45. As a result of the foregoing causes of action, the Plaintiff DAVID WHITE claims punitive damages against the Defendants, COUNTY OF ERIE, ERIE COUNTY SHERIFF JOHN GARCIA, ERIE COUNTY SHERIFF'S DEPUTY CHANDLER, and ERIE COUNTY SHERIFF SERGEANT LEWANDOWSKI in an amount that exceeds the jurisdictional limits of all lower court that would otherwise have jurisdiction.

46. As a result of the foregoing causes of action, the Plaintiff DAVID WHITE claims general damages against the Defendants, COUNTY OF ERIE, ERIE COUNTY SHERIFF JOHN GARCIA, ERIE COUNTY SHERIFF'S DEPUTY CHANDLER, and ERIE COUNTY SHERIFF SERGEANT LEWANDOWSKI in an amount that exceeds the jurisdictional limits of all lower court that would otherwise have jurisdiction.

RELIEF REQUESTED

WHEREFORE, Plaintiff respectfully requests a judgment:

1. Declaring that Defendants' actions and omissions as stated above violated Plaintiff's rights guaranteed by the Fourth, Eighth, and Fourteenth Amendments to the U.S. Constitution and 42 U.S.C. Sec. 1983.
2. Awarding Plaintiff compensatory damages against all Defendants in an amount to be determined.
3. Awarding Plaintiff punitive damages against the Individual Defendants in an amount to be determined.
4. Awarding Plaintiff the costs of this litigation and reasonable attorney's fees and expenses pursuant to 42 U.S.C. Sec. 1983 and Sec. 1988.
5. Awarding such other and further relief as the Court deems just and proper.

DATED: Buffalo, New York
July 9, 2023

PENBERTHY LAW GROUP LLP

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By: s/Brittanylee Penberthy, Esq.
BRITTANYLEE PENBERTHY, ESQ.
Attorneys for Plaintiff
Office and P.O. Address
227 Niagara Street
Buffalo, New York 14201
(716) 803-8402

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45. As a result of the foregoing causes of action, the Plaintiff DAVID WHITE claims punitive damages against the Defendants, COUNTY OF ERIE, ERIE COUNTY SHERIFF JOHN GARCIA, ERIE COUNTY SHERIFF'S DEPUTY CHANDLER, and ERIE COUNTY SHERIFF SERGEANT LEWANDOWSKI in an amount that exceeds the jurisdictional limits of all lower court that would otherwise have jurisdiction.

46. As a result of the foregoing causes of action, the Plaintiff DAVID WHITE claims general damages against the Defendants, COUNTY OF ERIE, ERIE COUNTY SHERIFF JOHN GARCIA, ERIE COUNTY SHERIFF'S DEPUTY CHANDLER, and ERIE COUNTY SHERIFF SERGEANT LEWANDOWSKI in an amount that exceeds the jurisdictional limits of all lower court that would otherwise have jurisdiction.

RELIEF REQUESTED

WHEREFORE, Plaintiff respectfully requests a judgment:

1. Declaring that Defendants' actions and omissions as stated above violated Plaintiff's rights guaranteed by the Fourth, Eighth, and Fourteenth Amendments to the U.S. Constitution and 42 U.S.C. Sec. 1983.
2. Awarding Plaintiff compensatory damages against all Defendants in an amount to be determined.
3. Awarding Plaintiff punitive damages against the Individual Defendants in an amount to be determined.
4. Awarding Plaintiff the costs of this litigation and reasonable attorney's fees and expenses pursuant to 42 U.S.C. Sec. 1983 and Sec. 1988.
5. Awarding such other and further relief as the Court deems just and proper.

DATED: Buffalo, New York
July 9, 2023

PENBERTHY LAW GROUP LLP



NYSCEF Confirmation Notice

Erie County Supreme Court



The NYSCEF website has received an electronic filing on 07/30/2023 02:22 AM. Please keep this notice as a confirmation of this filing.

809560/2023

David White v. COUNTY OF ERIE et al
Assigned Judge: None Recorded

Documents Received on 07/30/2023 02:22 AM

Doc #	Document Type
1	SUMMONS + COMPLAINT

Filing User

Brittany Lee Penberthy | bpenberthy@thepenlawgroup.com
227 Niagara St, Buffalo, NY 14201

E-mail Notifications

An email regarding this filing has been sent to the following on 07/30/2023 02:22 AM:

BRITTANY L. PENBERTHY - bpenberthy@thepenlawgroup.com

Email Notifications NOT Sent

Role	Party	Attorney
Respondent	COUNTY OF ERIE	No consent on record.
Respondent	ERIE COUNTY SHERIFF JOHN GARCIA	No consent on record.
Respondent	ERIE COUNTY SHERIFFS DEPUTY CHANDLER	No consent on record.
Respondent	ERIE COUNTY SHERIFFS SERGEANT LEWANDOWSKI	No consent on record.

* Court rules require hard copy service upon non-participating parties and attorneys who have opted-out or declined consent.

Michael P. Kearns, Erie County Clerk

Website: <http://www.erie.gov/clerk>

NYSCEF Resource Center, nyscef@nycourts.gov

Phone: (646) 386-3033 | Fax: (212) 401-9146 | Website: www.nycourts.gov/efile



NYSCEF Confirmation Notice

Erie County Supreme Court



809560/2023

David White v. COUNTY OF ERIE et al

Assigned Judge: None Recorded

Michael P. Kearns, Erie County Clerk

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Phone: (646) 386-3033 | Fax: (212) 401-9146 | Website: www.nycourts.gov/efile

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE**

-----X
DAVID WHITE

Plaintiff/Petitioner,

- against -
COUNTY OF ERIE, et al.

Index No. 809560/2023

Defendant/Respondent.
-----X

**NOTICE OF ELECTRONIC FILING
(Mandatory Case)
(Uniform Rule § 202.5-bb)**

You have received this Notice because:

1) The Plaintiff/Petitioner, whose name is listed above, has filed this case using the New York State Courts E-filing system ("NYSCEF"), and

2) You are a Defendant/Respondent (a party) in this case.

● **If you are represented by an attorney:**

Give this Notice to your attorney. (Attorneys: see "Information for Attorneys" pg. 2).

● **If you are not represented by an attorney:**

You will be served with all documents in paper and you must serve and file your documents in paper, unless you choose to participate in e-filing.

If you choose to participate in e-filing, you must have access to a computer and a scanner or other device to convert documents into electronic format, a connection to the internet, and an e-mail address to receive service of documents.

The **benefits of participating in e-filing** include:

- serving and filing your documents electronically
- free access to view and print your e-filed documents
- limiting your number of trips to the courthouse
- paying any court fees on-line (credit card needed)

To register for e-filing or for more information about how e-filing works:

- visit: www.nycourts.gov/efile-unrepresented or
- contact the Clerk's Office or Help Center at the court where the case was filed. Court contact information can be found at www.nycourts.gov

To find legal information to help you represent yourself visit www.nycourthelp.gov

**Information for Attorneys
(E-filing is Mandatory for Attorneys)**

An attorney representing a party who is served with this notice must either:

1) immediately record his or her representation within the e-filed matter on the NYSCEF site www.nycourts.gov/efile ; or

2) file the Notice of Opt-Out form with the clerk of the court where this action is pending and serve on all parties. Exemptions from mandatory e-filing are limited to attorneys who certify in good faith that they lack the computer hardware and/or scanner and/or internet connection or that they lack (along with all employees subject to their direction) the knowledge to operate such equipment. [Section 202.5-bb(e)]

For additional information about electronic filing and to create a NYSCEF account, visit the NYSCEF website at www.nycourts.gov/efile or contact the NYSCEF Resource Center (phone: 646-386-3033; e-mail: nyscef@nycourts.gov).

Dated: August 16, 2023

Brittany L Penberthy, Esq.

227 Niagara St., Buffalo, NY 14201

Name

Address

PENBERTHY LAW GROUP LLP

Firm Name

(716) 803-8402

Phone

bpenberthy@thepenlawgroup.com

E-Mail

To:

COUNTY OF EIRE

95 Franklin St. Buffalo, NY 14202

ERIE COUNTY SHERIFF JOHN GARCIA

10 Delaware Ave. Buffalo, NY 14202

ERIE COUNTY SHERIFF'S DEPUTY CHANDLER

10 Delaware Ave. Buffalo, NY 14202

ERIE COUNTY SHERIFF'S SEREANT LEWANDOWSKI

10 Delaware Ave. Buffalo, NY 14202